

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
) No. D-2061
RICHARD CHARLES EY, M.D.)
1915 Wilshire Boulevard)
Los Angeles, California 90057) L-15314
Physician's and Surgeon's)
Certificate No. C-24918,)
Respondent.)

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Division of Medical Quality, Board of Medical Quality Assurance as its Decision in the above-entitled matter.

This Decision shall become effective on the 9th day of October, 1978.

IT IS SO ORDERED this 8th day of September, 1978.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By Michael J. Carella
MICHAEL J. CARELLA
Secretary-Treasurer

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PROPOSED DECISION

This matter came on regularly for hearing before Willis Mevis, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on April 16, 1978, at the hour of 9:00 a.m. Joseph Barkett, Deputy Attorney General, represented the complainant. The respondent appeared in person and was represented by Robert Schwamb, Attorney at Law. Oral and documentary evidence and additional evidence having been received by mail, the matter was submitted and the Administrative Law Judge finds the following facts:

I

Robert G. Rowland is the Executive Director of the Board of Medical Quality Assurance of the State of California (hereinafter referred to as the "Board") and made and filed this accusation in his official capacity.

II

On or about March 7, 1963, Richard Charles Ey, M.D. (hereinafter referred to as "respondent") was issued physician's and surgeon's certificate No. C-24918 by the Board, and at all times herein mentioned, respondent was and is licensed to practice medicine and surgery in the State of California.

III

A. On or about October 24, 1974, in the County Court of the State of Wisconsin, Waukesha County, Branch II, in a proceeding entitled "State of Wisconsin v. Richard Charles Ey," case No. 21541, respondent was convicted of violating section 940.24, Wisconsin Statutes (negligent use of a weapon), a felony.

B. On or about April 18, 1977, in the Superior Court of the State of California, County of Orange, in a proceeding entitled "The People of the State of California v. Richard Charles Ey," case No. C-36435, respondent was convicted by the court of violating Penal Code section 192.1 (voluntary manslaughter), a felony.

IV

It was established that each of the offenses set forth in finding III, was committed by the respondent while under the influence of alcohol.

V

As a result of the conviction set forth in finding III-A, respondent was placed on four years probation with two hundred days to be spent in jail or in an institution for treatment of alcoholism. For the conviction set forth in finding III-A, respondent was sentenced to prison. Imposition of sentence was suspended for five years upon certain terms and conditions including a year in county jail with credit for time served. The Wisconsin probation was terminated inasmuch as respondent was to be subject to California probation authorities. Respondent was released from county jail in December 1977.

VI

The respondent, Richard Ey and Marilyn Ey were both alcoholics who could not live together and could not live apart. Following the altercation in Wisconsin set forth in finding III-A, they were divorced. Respondent moved to California and was followed by Marilyn. Thereafter, the stormy relationship between the parties continued and ended in the death of Marilyn.

VII

Over the past several years, the respondent, as an alcoholic, has received treatment in several institutions specializing in the treatment of such problems without notable success.

VIII

The respondent received his medical degree from the University of Illinois in 1958 where he also took his residency. After service in the Army Medical Corps, he took training at Rush-Presbyterian Hospital, St. Lukes Medical Center, Chicago, Illinois, in ophthalmology and passed his boards. He is licensed to practice in Illinois, Wisconsin and California, and has practiced in all of these states.

IX

Following his release from custody in December of 1977, respondent was employed in January 1978 by Patton State Hospital. After a few weeks service, he resigned and was almost immediately employed at Porterville State Hospital where he is on the staff of the sensory program. At Porterville, he attends Alcoholics Anonymous meetings three to four times per week. The respondent now feels that he can conquer his drinking problem where he has failed before because he now realizes that he wants to stay sober for his own sake and personal motivation rather than because a judge or relative wanted him to stay sober. He lives on the grounds of Porterville State Hospital with his 17 year old son. Two teenaged daughters live with relatives. Respondent now takes antebuse under the direction of his physician but no other drugs. Dr. Louis Smith, M.D. of Patton State Hospital testified as to the respondent's demonstrated professional capabilities while he was at Patton and also testified concerning the respondent's activities in Alcoholics Anonymous.

X

The proposed exhibits received from the parties by stipulation since the conclusion of the hearing are received in evidence.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Grounds have been established to suspend or revoke the license to practice medicine of the respondent pursuant to the provisions of sections 2360 and 2372 of the Business and Professions Code for unprofessional conduct for the violation of section 2383 (conviction of a felony) as set forth in finding III and section 2390 (conviction of a misdemeanor or felony involving the use of alcohol) as set forth in finding IV of said Code.

II

Consideration has been given to all competent evidence of mitigation and rehabilitation, and the Board's guidelines for disciplinary action have been considered in the light thereof.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Certificate No. C-24918 issued to respondent Richard Charles Ey, M.D. is revoked; provided, however, revocation is stayed and respondent is placed on probation for five years upon the following terms and conditions:

1. Respondent must abstain completely from the use of alcoholic beverages.
2. Respondent must comply immediately with requests from the Division's designee to submit to biological fluid testing.
3. Within 30 days of the effective date of this decision, respondent must submit to the Division for its prior approval, an alcoholic rehabilitation program in which respondent must participate weekly for at least 45 weeks of the calendar year for the duration of probation.
4. Within 30 days of the effective date of this decision, respondent must submit to the Division for its prior approval the name and qualifications of a psychiatrist of his choice. Within 60 days of the effective date of this decision, respondent must undergo a psychiatric examination by the approved psychiatrist who shall furnish a report to the Division determining whether respondent requires psychiatric treatment to practice medicine safely. Respondent must undergo treatment if so recommended. During the period of psychiatric treatment, respondent must have the approved psychiatrist furnish semi-annual progress reports to the Division.
5. Within 30 days of the effective date of this decision, respondent must submit to the Division for its prior approval the name and qualifications of an internist of his choice. Within 60 days of the effective date of this decision, respondent must undergo a physical examination by the approved internist who shall furnish a report to the Division determining whether respondent requires medical treatment to practice medicine safely. Respondent must undergo treatment if so recommended. During the period of medical treatment, respondent must have the approved internist furnish semi-annual reports to the Division.

6. Respondent must obey all federal, state and local laws, and all rules governing the practice of medicine in California, and shall comply with all terms of probation in People v. Ey, Orange County case number C36436.

7. Respondent must submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

8. Respondent must comply with the Division's probation surveillance program.

9. Respondent must appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

10. Respondent is prohibited from engaging in solo practice. Within 30 days of the effective date of this decision, respondent must submit to the Division, and receive its prior approval, for a plan of practice limited to a supervised, structured environment in which respondent's activities will be overseen and supervised by another physician.

11. In the event respondent should leave California to reside or to practice outside the State, respondent must notify the Division of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may move to set aside the stay order and impose the revocation of the respondent's certificate.

Upon successful completion of probation, respondent's certificate will be fully restored.

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter as a result of the hearing had before me on April 16, 1978, at Los Angeles, California, and recommend its adoption as the decision of the Division of Medical Quality, Board of Medical Quality Assurance.

DATED: June 22 78

WM:jm

WILLIS MEVIS, Administrative Law Judge
Office of Administrative Hearings

Richard Charles Ey, M.D.
Porterville State Hospital
Porterville, California